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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,668	04/26/2005	Mikio Totani	30033.0010	4372
7590                    09/25/2007 Hodgson Russ Andrews Woods & Goodyear Intellectual Property Practice Group 1800 One M&T Plaza Buffalo, NY 14203			EXAMINER TAWFIK, SAMEH	
		ART UNIT 3721		PAPER NUMBER
		MAIL DATE 09/25/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/532,668	TOTANI, MIKIO	
	<b>Examiner</b> Sameh H. Tawfik	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 August 2007.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 August 2007 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkes (U.S. Patent No. 5,800,325).

Wilkes discloses an apparatus for successively making plastic bags of plastic film, each of the plastic bags having a size, the apparatus comprising: upstream feeding means (Fig. 1; via 15 and 16) by which superposed layers of plastic film are fed intermittently along an upstream feeding path for a length which is N times as much as the size of plastic bag (Figs. 1 and 3) and at a cycle number; heat seal means disposed in the upstream feeding path (via heat sealing 19), the layers of plastic film being heat sealed by the heat seal means whenever being fed intermittently to obtain N times in number of plastic bags (Figs. 1 and 3); downstream feeding means (via rollers 25 and 26) by which the layers of plastic film are fed intermittently along a downstream feeding path for a length corresponding to the size of plastic bag and at a cycle number which is N times as many as the cycle number of the upstream feeding means, after being heat sealed by the heat seal means; a cutter (via 27) disposed in the downstream feeding path, the layers of plastic film being cut by the cutter whenever being fed intermittently; and an accumulator (via roller 24) disposed between the upstream and downstream feeding paths, the layers of plastic film being accumulated temporarily by the accumulator whenever being fed

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intermittently by the upstream feeding means, the layers of plastic film being then supplied from the accumulator whenever being fed intermittently by the downstream feeding means; wherein N is an integer equal to or greater than 2, see for example (Figs. 1 and 3).

Regarding claim 2: further comprising upstream drive means (via M 17) connected to the upstream feeding means and the heat seal means, downstream drive means (via M 28 and M 30) connected to the downstream feeding means and the cutter, and control means (via 21) by which the upstream drive means is controlled so that the upstream feeding means and the heat seal means can be driven and actuated by the upstream drive means (via 29) to be put into operation monitor by the control means, the downstream drive means being controlled by the control means so that the downstream feeding means and the cutter can be driven and actuated by the downstream drive means, at least one of the downstream feeding means and the cutter being stopped or actuated especially by the control means (column 5, lines 35-38) when at least one of the upstream feeding means and the heat seal means is subject to an unusualness of operation so that an operator can recognize the unusualness.

Regarding claim 4: wherein the upstream drive means comprises a main servomotor (via M. 17) and other servomotors (via hydraulic or air cylinders 22), the heat seal means being driven and actuated by the main servomotor (column 4, lines 59-61), the upstream feeding means being driven and actuated by other servomotors (via by M. 17), the main servomotor generating a signal of rotation whenever being rotated, the operation being monitored and confirmed by the signal of rotation (via sensor 20).

Regarding claim 5: wherein the downstream feeding means is delayed starting by a time

less than one cycle time thereof after the upstream feeding means starting, see for example (Figs. 1 and 3; via 24).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkes (U.S. Patent No. 5,800,325).

Regarding claim 3: further comprising discharge means disposed downstream of the cutter (note that it is inherent a collector will be disposed by the end line of the manufacture, which could be consider as discharge means), the plastic bags being discharged by the discharge means, upstream drive means (via M 17) connected to the upstream feeding means (15 and 16) and the heat seal means, downstream drive means (via M 28 and M 30) connected to the downstream feeding means (25 and 26), the cutter (27), and control means by which the upstream drive means (M 17) is controlled so that the upstream feeding means and the heat seal means can be driven and actuated by the upstream drive means to be put into operation monitored by the control means (via 21), the downstream drive means (M 28 and M 30) being controlled by the control means so that the downstream feeding means, the cutter can be driven and actuated by the downstream drive means.

Wilkes does not disclose that the downstream drive means controls the discharge means and stop it or actuate it when at least one of the upstream feeding means and the heat seal means is subject to an unusualness of operation so that an operator can recognize the unusualness.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Wilkes's apparatus by having an automated discharge means driven and controlled by a control means, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

Regarding claim 6: wherein the upstream drive means comprises a main servomotor and other servomotors, the heat seal means being driven and actuated by the main servomotor (via hydraulic or air cylinders 22), the upstream feeding means being driven and actuated by other servomotors (via M 17), the main servomotor generating a signal of rotation whenever being rotated, the operation being monitored and confirmed by the signal of rotation (via 20).

Regarding claim 7: wherein the downstream feeding means is delayed starting by a time less than one cycle time thereof after the upstream feeding means starting, see for example (Figs. 1 and 3; via 24).

#### *Response to Arguments*

Applicant's arguments filed 08/17/2007 have been fully considered but they are not persuasive.

Applicant argues that the applied reference to Wilkes '325 does not disclose the claimed cycle number N being predetermined before operating the apparatus nor feeding the web in regular and continuous cycles but in irregular and discontinuous cycles.

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The examiner believes that applicant is arguing of an issue not been claimed as such arguments related to the cycle number N being predetermined before operating the machine is not been claimed and as applicant is referring in the filed argument of such issue of the invention is different than the way it is been disclosed by '325, that does not make the claims patentable until it is clearly on the claim language. Further, the examiner maintains that '325 discloses that feeding the web in regular and continuous cycles via control systems 21 and 29, it might be in little different than the filed invention, but as far as broadly considering the claim language it appears that the web been fed in regular and continuous cycles.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik  
Primary Examiner  
Art Unit 3721

ST.

A handwritten signature in black ink, appearing to read "Sameh H. Tawfik".